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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,700	10/08/2004	Dong-Hun Yoon	4971-0102PUS1	4322
2292	7590	10/19/2007		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER BARHAM, BETHANY P	
			ART UNIT 1615	PAPER NUMBER
			NOTIFICATION DATE 10/19/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/510,700

Applicant(s)

YOON ET AL.

Examiner

Bethany P. Barham

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/18/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 2-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Summary

Applicant is reminded that the office has not received IDS as of this date.

Receipt of Applicant's Response filed on 09/18/2007 is acknowledged. Claims 1-11 are pending. Claims 2-11 are withdrawn. Claim 1 is rejected.

Applicant's election with traverse of Claim 1 in the reply filed on 09/18/2007 is acknowledged. The traversal is on the ground(s) that a search for the Group I will necessarily overlap with a search for Groups II-IV as originally presented and is therefore not independent and is only distinct. This is not found persuasive as the special technical feature of the original claims as filed is "a fat composition of high purity diglyceride containing conjugated linoleic acid", which is taught by the prior art as detailed in the restriction requirement. As such, claims 2-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species and invention, there being no allowable generic or linking claim. Claim 1 will be examined in the instant application. Applicant timely traversed the restriction (election) requirement in the reply filed on 09/18/2007. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1615

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by US 6,432,453 B1 ('453).

- '453 teach food supplement compositions comprising glycerol esters of conjugated linoleic acid, wherein the glycerol esters are selected from the group consisting of monoglyceride, diglyceride, triglyceride and mixtures thereof ('453 abstract, claims 1-3). '453 also teach various methods of preparing the diglyceride conjugated linoleic acid such as transesterification, or via acid by reacting CLA and glycerol ('453, col. 5, lines 35-41).
- '453 teaches that the CLA glycerol ester is provided in the dietary supplements from about 32% to about 91% by weight of the conjugated linoleic acid (claim 1) and that the glycerol ester is selected from the group consisting of monoglyceride, diglyceride triglyceride and mixtures thereof (claim 2).

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by US 2002/0147356 A1 ('356).

- '356 teaches food supplement compositions comprising glycerol esters of conjugated linoleic acid, wherein the glycerides are comprised of a blend of monoglyceride, diglyceride, and/or triglyceride and mixtures thereof ('356 abstract, claims 1, 3, 5). '356 also teaches various methods of preparing the


diglyceride conjugated linoleic acid such as dehydrating castor oil, or isomerizing vegetable oil ('356, claims 11-16).

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany Barham whose telephone number is (571)-272-6175. The examiner can normally be reached on Monday to Friday; 8:30 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600